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**THE FEDERAL TAKEOVER OF THE CHICAGO
HOUSING AUTHORITY—HUD NEEDS TO
DETERMINE LONG-TERM IMPLICATIONS**

FIFTH REPORT

BY THE

**COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT**

together with
ADDITIONAL VIEWS



DECEMBER 21, 1995.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

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(II)

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, December 21, 1995.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: By direction of the Committee on Government Reform and Oversight, I submit herewith the committee's fifth report to the 104th Congress.

WILLIAM F. CLINGER, Jr.,
Chairman.

(III)

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Union Calendar No. 212

104TH CONGRESS } 1st Session	HOUSE OF REPRESENTATIVES	{ REPORT 104-437
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THE FEDERAL TAKEOVER OF THE CHICAGO HOUSING AUTHORITY—HUD NEEDS TO DETERMINE LONG-TERM IMPLICATIONS

DECEMBER 21, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CLINGER, from the Committee on Government Reform and Oversight, submitted the following

FIFTH REPORT

On December 14, 1995, the Committee on Government Reform and Oversight approved and adopted a report entitled “The Federal Takeover of the Chicago Housing Authority—HUD Needs To Determine Long-Term Implications.” The chairman was directed to transmit a copy to the Speaker of the House.

I. SUMMARY

The Federal takeover of the Chicago Housing Authority (CHA) by the Department of Housing and Urban Development (HUD) on May 30, 1995, was an unprecedented model for intervention at a troubled public housing agency.¹ Although HUD has authority to intervene in troubled housing agency operations at any time, HUD maintains the takeover was precipitated by the resignation of the CHA Board of Commissioners, and was supported by Chicago Mayor Richard Daley. HUD has intervened in the operation of troubled housing agencies in the past. However, HUD has never

¹ 42 U.S.C. 1437d(j); 24 CFR 901.215: “(b) Upon determining that a substantial default exists under 901.200, the Department may initiate any interventions deemed necessary to maintain decent, safe and sanitary dwellings for residents. Such interventions may include: (1) Providing technical assistance for existing PHA management staff; (2) Selecting or participating in the selection of an alternate entity to provide technical assistance or other services up to and including contract management of all or for any part of the public housing developments administered by a PHA; or (3) Assuming possession and operational responsibility for all or for any part of the public housing administered by the PHA.”

assumed responsibility for the day-to-day operations of a housing agency the size of CHA.²

HUD's ability to carry out the CHA takeover effectively has immediate impact on the people of Chicago and broad implications for the 86 other housing agencies presently listed as "troubled" by HUD. If the takeover sets CHA on a course for recovery, HUD's assumption of control of CHA operations may be validated as an acceptable model of intervention at troubled housing agencies. Nonetheless, HUD has not articulated a long term plan to reform CHA and to extricate itself from CHA management.

Presently, clear statutory and regulatory standards for HUD intervention at troubled housing agencies do not exist. Consequently, it is unclear as to whether HUD may be called upon to take over management of other public housing agencies in the future—a task which may prove beyond HUD's resources and management capacity.³

Findings:

1. HUD's takeover of CHA was a necessary response to the resignation of the CHA Board of Commissioners.

2. HUD implemented a 120 day-plan to stabilize CHA finances, management, security and physical inventory.

3. Three months following the takeover, HUD lacked a long term strategy for reforming CHA, and extricating itself from CHA management.

4. HUD's presence at CHA will be required beyond January 1, 1996.

5. HUD lacks clear statutory or regulatory standards to trigger intervention at troubled housing agencies.

6. HUD does not have the staff resources necessary to run several troubled housing agencies at once.

7. The Resident Management Corporation at 1230 North Burling, Cabrini Green, Chicago has improved living conditions and economic opportunities for public housing residents.

Recommendations:

1. HUD should promptly secure strong, long term leadership at CHA.

2. HUD, and new CHA management, should develop a long term strategy for the recovery of CHA.

3. HUD should maintain a clear distinction between its actions as a Federal agency and its actions as CHA manager.

4. HUD's takeover of CHA should be evaluated as a pilot program to determine the effectiveness of direct HUD intervention at other troubled housing agencies.

5. Clear statutory or regulatory standards should be established for HUD intervention at troubled housing agencies.

² *The Federal Takeover of the Chicago Housing Authority: Oversight Hearing Before the Subcomm. on Human Resources of the House Comm. on Government Reform and Oversight, HRIR Hearing of 9/5/95. (Testimony of Henry Cisneros, Secretary, HUD.) (Original transcript pp. 28–31, in subcommittee files.)*

³ *HRIR Hearing of 9/5/95. (Prepared written statement of Judy England-Joseph, Director of Housing and Community Development Issues, General Accounting Office, pp. 2–3, in subcommittee files.)*

6. HUD should do more to support viable Resident Management Corporations, particularly those operating in troubled public housing developments.

II. BACKGROUND

On May 30, 1995, the Department of Housing and Urban Development (HUD) assumed control over the day to day operations of the "troubled" Chicago Housing Authority (CHA).⁴ Executed in the wake of the resignation of CHA's Board of Commissioners⁵ on May 26, 1995, the takeover was an unprecedented HUD action.⁶ A declared breach of contract between CHA and HUD signed by HUD Secretary Henry Cisneros on June 2, 1995, made the takeover legally effective. Both the Mayor of the City of Chicago, Richard Daley, and HUD view their relationship with respect to CHA as a partnership.⁷

CHA is the Nation's third largest public housing authority (PHA), surpassed in size only by those of Puerto Rico and New York City. CHA, created in 1937 by a resolution of the City of Chicago pursuant to the Housing Authorities Act of the State of Illinois,⁸ administers over 55,000 public and assisted housing units serving over 150,000 residents. Funding for CHA programs and administration is provided by the Department of Housing and Urban Development in accordance with the Annual Contributions Contract (ACC).⁹ CHA has been on HUD's list of "troubled" housing agencies since 1979, when the list was first created, due to the housing authority's inability to achieve a passing score on the Pub-

⁴ As used in this report, the following definitions apply:

Troubled public housing: Public housing authorities unable to meet minimal performance standard, as reflected in their Public Housing Management Assessment Program (PHMAP) score, are categorized as troubled by HUD. Housing authorities identified as troubled enter into a Memorandum of Agreement with HUD which sets forth targets, strategies, incentives and sanctions for improving management performance. If HUD finds a PHA unable to improve its performance, the Department may solicit proposals from private managers or other PHA's for the management of the troubled PHA's public housing programs. The Department may also petition the appropriate state or federal court to appoint a receiver for the troubled PHA, or assume operation of the PHA itself. While HUD has pursued receivers and private management in the past for large troubled agencies, it is rare that HUD declares a breach in the Annual Contributions Contract (ACC) and assumes direct control of a housing agency. CHA is the largest housing authority to have ever been taken over by the Department. CHA remained on HUD's troubled list for sixteen years prior to the 1995 takeover. As of January 1995, HUD had identified 90 PHA's in the nation as troubled. These 90 PHA's were responsible for 17% of the public housing stock.

Public Housing Management Assessment Program (PHMAP): The PHMAP assesses PHAs on indicators such as vacancy rates, use of modernization funds and housing conditions on an annual basis. There are 11 indicators. PHAs receiving a score below 60 on their PHMAP are classified as "troubled".

Receivership: Court appointed receivers, such as David Gilmore, receiver of the D.C. Housing Authority, assume control of a housing agency by order of a court. Receivers then carry out the management and recovery of housing agencies under the direction of the judge. As a receiver's actions are a function of court order, they often enjoy the political immunity and regulatory latitude necessary to carry out dramatic reform at troubled housing agencies.

⁵ Resolution 95-CHA-209, Chicago Housing Authority, 1995. The resolution became effective May 30, 1995 at 5:00 p.m. (CST). (In subcommittee files.)

⁶ HRIR Hearing of 9/5/95. (Prepared written statement of Jeffrey Lines, President, TAG Associates, p. 4, in subcommittee files.) HUD rarely assumes control of the operations of a public housing agency and has never assumed the operation of an agency comparable to the size and scale of CHA.

⁷ *Chicago Public Housing, 1995: Hearing on the federal takeover of the Chicago Housing Authority Before the Subcomm. on Housing and Community Opportunity of the House Comm. on Banking and Financial Services*, 104th Cong., 1st Sess. p. 77. (1995) ("Banking Hearing of 6/7/95") (Statement of Henry Cisneros, Secretary, HUD).

⁸ 310 ILS 10/1. *et. seq.*

⁹ The Annual Contributions Contract (ACC) sets out the terms and conditions under which HUD provides funding to public housing agencies to develop and operate public housing. Funding provided to a housing agency is based on HUD's Performance Funding System (PFS).

lic Housing Management Assessment Program (PHMAP).¹⁰ CHA is plagued by a poorly conceived and distressed housing stock, an acutely poor resident population and a historically mismanaged administrative bureaucracy.¹¹

A report issued by former United States Attorney Anton Valukas in June 1994, exposed \$15.3 million in misappropriated CHA pension assets, \$4.3 million in misappropriated health insurance payments, \$200,000 in improper insurance commissions and millions of dollars lost through fraudulent actions by outside vendors and CHA personnel.¹² It was estimated that the financial losses discovered during the Valukas investigation totaled more than \$26 million.¹³

Additionally, evidence of fraud and mismanagement has been unearthed in the past by the HUD Inspector General and CHA Inspector General in other departments at CHA.¹⁴ The Section 8 program¹⁵ operated by CHA was particularly troubled and became the focus of efforts by HUD detailees sent to CHA six months prior to the takeover. These weaknesses in CHA's bureaucracy are largely attributable to the housing authority's highly centralized administration.¹⁶

Another difficulty afflicting CHA is its dilapidated housing stock. The CHA landscape is marred by concentrations of deteriorated high-rise buildings, dubbed by one *Washington Post* reporter as "high-rises to hell,"¹⁷ which represent serious challenges to the housing authority's recovery. The vertical structures are clustered together on large plots of vacant land isolated from economic activity. Gang and criminal activity flourish in the high-rise configurations and residents live in perpetual fear of violence. At the time of the Federal takeover, deferred maintenance of CHA properties

¹⁰ HUD-funded public housing agencies are subject to an annual Public Housing Management Assessment Program (PHMAP) which assesses public housing agencies on indicators such as vacancy rates, use of modernization funds, and housing conditions. Housing agencies which fail to maintain a PHMAP above 60 are placed on the "troubled" list and must enter into a Memorandum of Agreement with HUD which sets forth strategies, targets, incentives and sanctions for improving management performance.

¹¹ HRIR Hearing of 9/5/95. (Prepared written statement of Henry Cisneros, Secretary, HUD, pp. 1-2, in subcommittee files.)

¹² Anton Valukas, former U.S. Attorney, and the law firm of Jenner & Block were retained by the Chicago Housing Authority (CHA) to make two reports which were subsequently turned over to the United States Attorney's Office. The CHA Board of Commissioners asked the law firm for a report on various allegations of wrongdoing in the operation of the CHA's Retirement Plan, Pre-Tax Savings Plan and other insurance matters. The CHA Oversight Committee also secured Jenner & Block as a special counsel for an investigation of fraud and irregularities by outside vendors providing goods and services to CHA. This second investigation was broadened to include inquiries into wrongdoing by certain CHA Police Department Personnel.

¹³ According to an overview of the investigation of the Chicago Housing Authority by the CHA Oversight Committee and Jenner & Block provided to the subcommittee by HUD. (In subcommittee files.)

¹⁴ Office of the Inspector General, Department of Housing and Urban Development, Chicago Housing Authority Maintenance Operations, 94-CH-201-1013, (1994). The CHA Inspector General issued a separate report pointing to a lack of oversight enforcement in CHA's management of Section 8 programs.

¹⁵ In addition to funding public housing, HUD provides rental subsidies to owners of private units renting to qualified low-income residents pursuant to Section 8 of the United States Housing Act of 1937, as amended. Through Section 8, HUD pays housing unit owners, either for-profit or non-profit, the difference between the fair market rent for the dwelling and a percentage of the tenant's income. Public Housing Agencies may assume responsibility for administering some portions of Section 8, particularly the certificates and vouchers programs, and are compensated by HUD for incurred operating and administrative costs.

¹⁶ TAG Associates, Review of the Organization, Management Operations and Public Housing Portfolio of the Chicago Housing Authority (1994). (In subcommittee files.)

¹⁷ Banking Hearing on 6/7/95. p. 207. (Statement of Susan Gaffney, Inspector General, HUD)

had rendered 58% of the units unsuitable for human habitation by Federal standards, although CHA's occupancy rate was 85%.¹⁸

The socio-economic status of the resident population of CHA also creates particular challenges for the housing authority. Eleven of the 15 poorest neighborhoods in the Nation are located in CHA communities.¹⁹ The average income of a CHA resident is only \$4,665, while the national average for public housing tenants is over \$6,000.²⁰ This contributes to low rent revenues and severe social problems. Ninety-five percent of CHA residents are African American, a phenomenon attributable to the segregated housing policies pursued by the Chicago Housing Authority in the 1950s and 1960s.²¹ Nearly 50% of the CHA population is under the age of 15.²²

On June 1, 1995, Congresswoman Cardiss Collins, Ranking Member of the Government Reform and Oversight Committee, submitted a request to Committee Chairman William F. Clinger that hearings be conducted in Chicago on the role of HUD in the operation of the Chicago Housing Authority. Subsequent to this letter, the Subcommittee on Human Resources and Intergovernmental Relations (the Subcommittee) began an investigation into the Federal takeover at CHA.

On July 11, 1995, the Subcommittee submitted an inquiry and document request to HUD requesting certain information concerning CHA's demolition and redevelopment initiatives, HUD's efforts to reform CHA administration and CHA budget reconciliation for FY95. HUD responded to this request on August 1, 1995. Former CHA Executive Vince Lane, Mayor Richard Daley, CHA residents, former CHA staff, local housing and community development experts and others were also interviewed by Subcommittee staff in preparation for the hearing.

Assistant Secretary Joseph Shuldiner and additional HUD staff met with Subcommittee and Member staff on August 21, 1995, to discuss HUD actions at CHA since the takeover. On August 25, 1995, majority and minority staff conducted on-site investigations and interviews in the City of Chicago. On August 28, 1995, the Subcommittee requested additional information and documents from HUD's Office of General Counsel with respect to legal issues involved in the CHA takeover. The Office of General Counsel met with Subcommittee staff the next day to provide a response to the requests and answer staff questions.

On September 5, 1995, the Subcommittee held a hearing in Chicago to investigate the Federal takeover of the Chicago Housing Authority. The hearing focused on HUD's progress at CHA since the May 30 takeover, the department's short and long term strategies for reforming CHA and HUD's plans for installing new leadership and management at the housing authority.

¹⁸ HUD Memo Hits "Mismanaged CHA", Chicago Tribune, June 7, 1995. (In subcommittee files)

¹⁹ HRIR Hearing of 9/5/95. (Prepared written statement of Henry Cisneros, Secretary, HUD, p. 2, in subcommittee files.)

²⁰ According to information provided by HUD staff at CHA. (In subcommittee files.)

²¹ In 1969, a federal court ruled that CHA and HUD were responsible for creating racially segregated public housing in the City of Chicago. *Gautreaux v. CHA* (296 F. Supp. 907 (1969))

²² See *Supra* note 19.

The Honorable Henry Cisneros, Secretary of the Department of Housing and Urban Development, testified on behalf of HUD. Joining him were Joseph Shuldiner, Assistant Secretary for Public and Indian Housing²³ and Kevin Marchman, Deputy Assistant Secretary for Distressed and Troubled Housing.²⁴

The subcommittee also heard testimony from panels of tenants, public housing management experts and city and private sector representatives. The tenant panel consisted of Artensia Randolph, President of the Central Advisory Committee, Hattie Calvin, President of the Cabrini Green Leadership Advisory Council, and Cora Moore, 1230 North Burling, Cabrini Green, Resident Management Corporation. Jeffrey Lines, Kansas City Receiver and President, TAG Associates, and Judy England-Joseph, Director, Housing and Community Development Issues, U.S. General Accounting Office testified with respect to CHA management. Testifying on city and private sector partnerships were: Rosanna Marquez, Director of Programs, City of Chicago, Chief George Murray, Chief of the CHA Police Department and William Wallace, Managing Director, Housing Technology Corporation.

During the hearing, the subcommittee requested that HUD submit a list of non-budgetary statutory reforms that would assist in the recovery of CHA and other troubled housing agencies. On September 25, 1995, HUD provided the Subcommittee with the requested list.²⁵ The Subcommittee in turn referred the list to the House Banking and Financial Services Subcommittee on Housing and Community Opportunities.

Additional information was requested by the Subcommittee on September 11, 1995, including information regarding HUD-funded consultants involved in the CHA recovery. HUD's response to the request included a statement indicating that the department did not directly hire any consultants for CHA. Rather, consultants for CHA's recovery were secured by the National Association of Housing and Redevelopment Officials (NAHRO) in accordance with an agreement in place between HUD and NAHRO. The agreement directs NAHRO to assemble recovery teams for individual troubled housing agency sites, including Chicago. The management of these consultants was brought into question when conflicting accounts of the length of a contract awarded to one housing consultant, Rick White, were provided to the Subcommittee staff.²⁶ The Subcommittee again wrote HUD on October 4, 1995, inquiring about Mr.

²³ On October 16, 1995, Joseph Shuldiner left HUD to become the Executive Director of CHA.

²⁴ At the time of the hearing Kevin Marchman was Deputy Assistant Secretary of the Office of Distressed and Troubled Housing and served as the Interim Executive Director at CHA. Upon the departure of Joseph Shuldiner from HUD, Marchman was nominated for the vacated Assistant Secretary of Public and Indian Housing post and is currently acting in that capacity.

²⁵ The four non-budgetary reform proposals submitted by HUD to the Subcommittee included: (1) Continuation of the repeal of the one-for-one rule and provision allowing the use of modernization funds for replacement housing included in the 1995 rescissions bill; (2) additional powers for HUD and/or court ordered receivers in the takeover of troubled housing agencies; (3) enactment of HUD proposals that would require takeover or receivership action at troubled housing agencies that fail to achieve satisfactory improvement after a year; and (4) additional statutory authority to discontinue the employment of excessively expensive, overly dense concentrations of very low-income families where tenant-based assistance could provide a better living environment at a lower cost. (In subcommittee files.)

²⁶ The oral account provided by Mr. White during a meeting with CHA, HUD and subcommittee staff on August 25, 1995 with respect to the length of White's consulting contract with NAHRO conflicted with the written response provided to the subcommittee on September 29, 1995.

White's consulting contract. A response was provided October 31, 1995 stating the contract in question had been temporarily extended by NAHRO, thereby creating some confusion as to the contract's exact terms. Following that contract's expiration, CHA contracted with Mr. White directly.

On October 10, 1995, the Subcommittee received a letter from an individual writing on behalf of the 1230 North Burling Resident Management Corporation (RMC) claiming that CHA was not adequately compensating the RMC at 1230 North Burling, Cabrini Green at CHA. The Subcommittee also inquired by letter of October 20, 1995, as to the status of the funding allocations and management contract between CHA and 1230 North Burling RMC. HUD responded to the Subcommittee on November 7, 1995, and is reportedly pursuing corrective action with respect to the funding of the RMC.²⁷

III. FINDINGS

1. HUD's takeover of CHA was a necessary response to the resignation of the CHA Board of Commissioners.

During the September 5 hearing, Chairman Shays concluded that HUD's takeover of CHA operations was necessary given the magnitude and severity of the problems faced by the housing authority and its residents. Members also noted the significant investment of Federal funds the mismanagement of CHA had placed in jeopardy. However, earlier intervention on the part of HUD may have spared CHA years of deferred maintenance, administrative waste and the deterioration of social conditions within the public housing developments.²⁸

GAO concurred that the takeover was necessary stating:

Because of the circumstances HUD faced in May 1995 HUD's decision to take control of CHA with its own staff, on balance, appears to have been the best option available. The immediate need for leadership prevented HUD from taking the time to exercise other options, such as contracting with private management. Nevertheless, private management and receivership are still viable options for developing long term solutions to CHA's problems.²⁹

Still, HUD clearly has had a long-standing option to declare CHA in default of its ACC and place the housing authority under HUD management, private management, the management of an alternative housing agency or a court appointed receiver. CHA has been on HUD's list of troubled housing agencies since 1979.

²⁷ HUD's Management of Public Housing Resident Programs: Oversight Hearing Before the Subcomm. on Human Resources of the House Government Reform and Oversight Comm. (Resident Hearing of 11/9/95.) (Prepared written statement of Kevin Marchman, Acting Assistant Secretary of Public and Indian Housing, HUD, p. 6, in subcommittee files.)

²⁸ CHA was first placed on HUD's list of troubled housing agencies when the list was created in 1979 where it has remained since that time. In July 1987, HUD's Deputy Assistant Secretary of Public and Indian Housing made a recommendation that CHA be placed under private management. The recommendation was not adopted. Public Housing: Chicago Public Housing Authority Takes Steps to Address Long Standing Problems. (GAO/RCED-89-100, June 8, 1995.)

²⁹ HRIR Hearing of 9/5/95, (Prepared written statement of Judy England-Joseph, Director of Housing and Community Development Issues, General Accounting Office, p. 4, in subcommittee files.)

2. *HUD implemented a 120 day-plan to stabilize CHA finances, management, security and physical inventory.*

HUD submitted to the Subcommittee a 120 day stabilization plan for CHA that outlined six specific objectives and goals and provided timeliness and performance measures.³⁰ The six objectives and goals are as follows:

Security and Safety: Increase the level of safety in and around Chicago's public housing developments and develop community policing plans.

Resident Services: Increase resident participation in the decisions affecting their lives.

Housing Operations: Improve the effectiveness of CHA's maintenance program and improving the appearance of CHA buildings and open spaces.

Administration and Financial Management: Replace the existing CHA administrative structure and create a new structure which will provide field support for field management, manage CHA assets and resources, and restore confidence and integrity at CHA.

Building Community Involvement: Increase the community's involvement with CHA's programs.

Redevelopment: Demolish certain high-rise buildings and replacing them with less dense dwellings that create better living conditions and opportunities for low-income families.

3. *Three months following the takeover, HUD lacked a long term strategy for reforming CHA and extricating itself from CHA management.*

Protracted problems stemming from CHA's administrative structure, physical housing stock and social environment must be resolved to implement an effective recovery at CHA. Short term solutions, such as HUD's 120 day plan, will not likely result in the long term correction of these problems. A long term recovery strategy for CHA is necessary. HUD was unable to provide the Subcommittee with a long term strategy at the time of the hearing. HUD also lacked a plan for extracting itself from the daily operations of CHA.

Long term plans for the recovery of CHA should address, among other things, the following matters:

CHA's Housing Stock: CHA's housing stock is distressed due to deferred maintenance and poorly conceived architecture. This contributes to the widespread blight of CHA developments and must be addressed through rehabilitation, redevelopment and proper building management. Demolition of certain CHA structures may be necessary to CHA's long term recovery.³¹

³⁰ HRIR Hearing of 9/5/95. (Prepared written statement of Henry Cisneros, Secretary, HUD, p. 4, in subcommittee files.) (A copy of the 120 day plan is in the subcommittee files.)

³¹ See *Supra* note 16.

Social Conditions at CHA: CHA developments are occupied by densely populated, poverty-impacted communities. High concentrations of broken families, unemployment, gang activity and substance abuse create social instability in CHA developments.³² These problems were compounded by CHA's abandonment of fundamental public housing regulations, such as tenant eviction and screening, prior to the HUD takeover.³³

CHA's Bureaucracy: The centralized bureaucracy in place at CHA at the time of the takeover was ineffective and vulnerable to fraud, waste and abuse. CHA's institutional deficiencies are exemplified by the following examples: \$600 million in unexpended funds were trapped in the CHA pipelines at the time of the HUD takeover,³⁴ the Valukas report unearthed an estimated \$26 million in losses due to fraud at CHA;³⁵ and the HUD Inspector General Audit on Maintenance Operations found serious deficiencies in CHA's execution of maintenance repairs and other public housing management operations, including tenant screening and eviction policies.³⁶

Resident/CHA Relations: Problems exist with respect to resident/CHA relations. Oral accounts provided by several CHA resident leaders during, and prior to, the hearing suggest resident alienation from the CHA administration, patronage between former CHA administrators and certain residents, resident distrust of CHA Police, and resident distrust of CHA commitments with respect to redevelopment plans.

4. HUD's presence at CHA will be required beyond January 1, 1996.

Secretary Cisneros testified at the hearing that HUD would remove itself from daily operations of CHA by January 1, 1996. Given the protracted nature of the problems faced by CHA and the absence of a long term plan for CHA's recovery, the Subcommittee finds that HUD's presence will be required beyond the Secretary's projected pull-out date.

5. HUD lacks clear statutory or regulatory standards to trigger intervention at troubled housing agencies.

HUD is primarily a regulatory and monitoring agency that assumes direct control over housing agencies in only rare and select cases.³⁷ PHMAP scores assess public housing agencies on performance indicators such as vacancy rates, use of modernization funds and housing conditions. Public housing agencies that fail to receive a passing score on their PHMAP are listed as "troubled" by HUD and enter into a memorandum of agreement that sets forth strategies, incentives and sanctions for improving management perform-

³² Ibid.

³³ Abandonment of tenant eviction and screening regulations were described to Subcommittee staff during interviews conducted prior to the hearing.

³⁴ HRIR Hearing of 9/5/95. Original transcript p. 62, in subcommittee files. (Testimony of Joseph Shuldiner, Assistant Secretary of Public and Indian Housing, HUD) Mr. Shuldiner confirmed that \$600 million in unexpended funds were available to CHA for redevelopment. Shuldiner stated that half of the \$600 million were funds allocated to CHA in the past for general development purposes, while the other half were allocated specifically for the redevelopment of the Cabrini Green and Henry Horner developments.

³⁵ See *Supra* at note 13.

³⁶ Banking Hearing of 6/7/95. p. 207. (Statement of Susan Gaffney, Inspector General, HUD.)

³⁷ HRIR Hearing 9/5/95. (Prepared written statement of Jeffrey Lines, President, TAG Associates, p. 5, in subcommittee files.)

ance. If a housing agency substantially defaults upon its agreement, or with respect to other covenants or conditions to which it is subject, HUD may solicit proposals from other public housing agencies and other public housing management agencies for the management of the defaulted public housing agency, or petition the appropriate State or Federal court to appoint a receiver to manage the defaulted housing agency.³⁸

Presently, no statute or regulation requires HUD to intervene if a housing agency fails to raise its PHMAP score or fulfill its memorandum of agreement over time. Section 6(j) of the United States Housing Act of 1937 states only that, “[n]otwithstanding any other provision of law or of any contract for contributions,” the Secretary of HUD may engage a variety of models for intervention at housing agencies found in default of their agreement with HUD to operate public housing programs.³⁹ Without more objective criteria to trigger HUD’s intervention, HUD’s decision to act at select housing agencies can appear arbitrary or motivated by political considerations.⁴⁰ Although, HUD asserted it intervened at CHA in response to the Board of Commissioner’s abdication, HUD participated in the decision to place the department in charge of CHA.

6. HUD does not have the staff resources necessary to run several troubled housing agencies at once.

In their written statement, GAO testified that Assistant Secretary Joseph Shuldiner stated that HUD may not have the capacity to run troubled housing agencies in the future.⁴¹ Additionally, other troubled housing agencies, in desperate need of HUD assistance and oversight, must be tended to by HUD’s finite pool of public housing specialists. The extended presence of HUD staff at CHA could have implications for the quality of oversight provided to the 87 other troubled housing agencies in the Nation. This drain on staff resources would be compounded by additional HUD takeovers pursued by HUD prior to their departure from CHA operations.

Should HUD or Congress determine that the intervention model pursued at CHA is a viable alternative for reforming troubled housing agencies, the potential for its use at other housing agencies would be limited by the finite pool of qualified staff at HUD.

7. The Resident Management Corporation at 1230 North Burling, Cabrini Green, Chicago has improved living conditions and economic opportunities for public housing residents.

Assumption of management responsibilities at 1230 North Burling, Cabrini Green, resulted in improved living conditions and the creation of economic opportunity for the residents living there.⁴²

³⁸ 24 CFR 901 et. seq.

³⁹ 42 U.S.C. 1437d(j).

⁴⁰ HUD’s intervention at CHA in part facilitated the finalization of plans to demolish the blighted Henry Horner developments. The developments are located across the street from the site of the 1996 Democratic National Convention. Consequently, allegations have been made in the media that the HUD takeover may have been politically motivated. (In subcommittee files.)

⁴¹ HRIR Hearing of 9/5/95. (Prepared written statement of Judy England-Joseph, Director, Housing and Community Development Issues, General Accounting Office. p. 4, in subcommittee files.)

⁴² Prior to the hearing, members of the subcommittee were given a tour of the development at 1230 North Burling in Cabrini Green. The Resident Management Corporation operating at 1230 North Burling has produced visible improvements in the quality of housing provided and created job opportunities for some residents.

Cora Moore, Manager of the 1230 North Burling Resident Management Corporation, testified that her corporation's presence in the building has resulted in a 60% decrease in crime and a 50% decrease in vandalism at the building site. Furthermore, the resident management corporation now operates its own on-site laundry room, the profits from which will be used for future projects for the 1230 North Burling community.

1230 North Burling's management activities facilitated the hiring of eleven of its residents as employees of the resident management corporation and an additional 35 residents are projected to be hired to renovate all of the apartments in the building. 1230 North Burling also runs an after school tutoring program in conjunction with a non-profit organization which donated a new playground to the resident management corporation.⁴³

IV. RECOMMENDATIONS

1. HUD should promptly secure strong, long term leadership at CHA.

CHA is in need of strong, long term leadership.⁴⁴ The new management secured for CHA must have the required expertise to develop and implement a long term strategy for the recovery of CHA and to act autonomously of HUD's participation in daily operations. Timeliness in securing this new management structure is necessary to prevent any potential lapses in implementation of recovery initiatives and improvements made by HUD during its interim control of CHA operations. Also, delay in securing long term leadership could create a potential for the excessive expenditure of funds on short term HUD efforts that may prove inconsistent with long range goals yet to be defined by CHA management. Such expenditures could pose a threat to CHA and the limited resources available to it.

Additionally, the new management structure should correct deficiencies in the former CHA administrative structure, which was weak and inefficient.⁴⁵

2. HUD, and new CHA management, should develop a long term strategy for the recovery of CHA.

HUD must ensure that a long term strategy is defined to address the long standing difficulties confronting CHA. The strategy should address comprehensive rehabilitation of the housing stock, the quality of resident services and relations, progress toward community enhancement and development, and the quality of the relationship between the housing agency and the broader community.⁴⁶

⁴³ HRIR Hearing of 9/5/95. (Prepared written statement of Cora Moore, Manager, 1230 North Burling, p. 3, in subcommittee files.)

⁴⁴ HRIR Hearing of 9/5/95. (Prepared written statement of Judy England-Joseph, Director, Housing and Community Development Issues, General Accounting Office, p. 6, in subcommittee files.)

⁴⁵ HRIR Hearing of 9/5/95. (Prepared written statement of Judy England-Joseph, Director of Housing and Community Development Issues, General Accounting Office, p. 5, in subcommittee files.) (Prepared written statement of Jeffrey Lines, President, TAG Associates, p. 2, in subcommittee files.)

⁴⁶ HRIR Hearing of 9/5/95. (Prepared written statement of Judy England-Joseph, Director of Housing and Community Development Issues, General Accounting Office, p. 7, in subcommittee files.)

Implementation of this long term strategy should also account for HUD's withdrawal from daily CHA operations.

However, short term actions by HUD could limit CHA's long term inventory options. After assuming control of CHA, HUD, at the direction of Assistant Secretary Joseph Shuldiner, issued a Request for Qualifications (RFQ) asking private sector housing managers to craft their own proposals for running some or all portions of the CHA stock. Action on responses to the RFQ had not been taken at the time of the hearing.

Unfortunately, plans defined by the private sector, rather than the housing authority, may not be in the best interest of CHA and could leave CHA with a difficult mix of properties to manage. Management companies may not prove willing to assume responsibility for the properties at a reasonable cost, particularly the more troubled housing developments.

A long term strategy will also foster improved resident/CHA relations. Residents have a deep seated distrust of the housing authority and local developers.⁴⁷ Unless HUD/CHA can present the residents with redevelopment and reorganization plans that fit in a logical long term strategy for improving CHA and resident life, residents are likely to resist initiatives that threaten the status quo.

Further, efforts to reform CHA should be integrated with initiatives to end the geographic and economic isolation of CHA residents. Strategies involving community and economic development efforts in, and surrounding, CHA housing developments need to be developed. As Chicago was chosen as one of the Nation's six Empowerment Zones (EZ)⁴⁸, the city should make efforts to include CHA communities in EZ urban revitalization efforts.⁴⁹

3. HUD should maintain a clear distinction between its actions as a Federal agency and its actions as CHA manager.

Clear demarcations must be maintained between actions taken by HUD and actions taken by HUD in the name of CHA for the duration of the takeover. The resolution passed by the CHA Board of Commissioners specifically named Joseph Shuldiner, Assistant Secretary of Public and Indian Housing as the new proprietor of CHA. While this resolution was not legally binding,⁵⁰ the takeover presents questions of Federal Government liability for the actions of HUD employees in the operations of CHA. These questions are particularly of concern with respect to HUD employees who assumed temporary CHA titles.

In an effort to maintain the demarcation between HUD and CHA and avoid possible conflicts of interest, Assistant Secretary Joseph

⁴⁷ Resident distrust of CHA and local developers was expressed to Subcommittee staff by during interviews with CHA residents prior to the hearing.

⁴⁸ The Empowerment Zone and Enterprise Community program promotes the comprehensive revitalization of distressed communities by funding broad, community based strategic plans. Chicago was named as one of six empowerment zones in December 1994.

⁴⁹ HRIR Hearing of 9/5/95. (Prepared written statement of Judy England-Joseph, Director, Housing and Community Development Issues, General Accounting Office, p. 9, in subcommittee files.) GAO stated that the involvement of CHA in activities such as the Empowerment Zone, "would be beneficial". However, benefits resulting from neighborhood revitalization efforts may take years to manifest themselves at CHA.

⁵⁰ It was the Secretary's June 2, 1995 breach of contract letter that provided the legal grounds for the HUD takeover. The letter stated HUD had decided to "act in the name of and on behalf of the CHA," rather than stating the agency would act *as* the CHA.

Shuldiner and Deputy Assistant Secretary Kevin Marchman, acting as the CHA Executive Committee Chairman and Interim CHA Executive Director respectively, executed memorandums on June 6, 1995, recusing themselves from HUD matters regarding competitive assistance administered by HUD.

4. *HUD's takeover of CHA should be evaluated as a pilot program to determine the effectiveness of direct HUD intervention at other troubled housing agencies.*

HUD should create measures by which the recovery of CHA can be assessed. According to GAO, HUD has taken steps towards establishing accurate baseline data for maintenance, finances, inventories and other areas to measure the success of the future CHA and private managers contracted by the housing authority. Additional indicators must be developed, although Congress should recognize that such measures can only be evaluated for trends over time. As certain HUD regulations are reinstated at CHA, such as tenant screening and eviction, some traditional public housing management performance indicators, such as vacancy rates, may actually worsen before improving.⁵¹

5. *Clear statutory or regulatory standards should be established for HUD intervention at troubled housing agencies.*

Congress should establish a statutory threshold for HUD intervention at troubled public housing agencies. Although HUD created an Office of Troubled and Public Housing in 1994 to address the problems posed by troubled public housing agencies, HUD's oversight and regulation of public housing agencies continues to be insufficient. Troubled public housing agencies represent a waste of Federal funds and can have tragic consequences for the tenants residing there.⁵²

The absence of thresholds triggering intervention raises questions concerning what factors influence decisions to intervene at troubled housing agencies. The absence of objective thresholds for intervention also begs the question as to why an ailing housing authority would be permitted to continue operation without some form of intervention into its operations by HUD. Without uniform requirements governing the agency's intervention at troubled housing agencies, the process may be open to politicization.

In the case of CHA, HUD intervened in the daily operations of the housing authority upon the resignation of the entire CHA Board of Commissioners. Although conversations had been on-going with respect to the possibility of a takeover between representatives of HUD, CHA and the City of Chicago prior to passage of that resolution, Secretary Cisneros did not sign a letter declaring a breach of contract between HUD and the housing authority until June 2, 1995, three days after HUD had been appointed by the former Board of Commissioners as the new proprietor of CHA.

⁵¹ HRIR Hearing of 9/5/95. (Prepared written statement of Judy England-Joseph, Director of Housing and Community Development Issues, General Accounting Office, p. 7, in subcommittee files.)

⁵² *Public Housing: Vacant Units, Wasted Federal Dollars, Oversight Hearing Before the Subcomm. on Employment, Housing and Aviation of the House Government Operations Comm.*, 103rd Cong., 2nd Sess., (1994). The subcommittee testimony revealed extensive waste and abuse of federal funds and deteriorated living conditions at public housing agencies.

HUD's inability to declare an official breach of contract on the same day of the takeover suggests some challenges on the part of the department in responding to an unpredictable intervention process.

Given that HUD's intervention at troubled housing agencies is not governed by statute or regulation, it is difficult to establish measures to rate HUD's performance in a housing agency takeover. Also, the lack of clear guidance governing the implementation of HUD takeovers also fails to provide the department with a clear exit strategy from PHA operations.

HUD is presently considering regulations which would necessitate intervention by HUD if a housing agency failed to improve performance over a specified period of time.⁵³

6. HUD should protect viable Resident Management Corporations from poorly managed public housing agencies.

Resident Management Corporations (RMC) can provide viable private management at public housing developments. RMC's additionally create opportunities for resident empowerment and economic uplift. Accordingly, HUD should encourage public housing agencies to contract with functional RMCs where possible. RMCs should particularly be encouraged within developments that have been failed by troubled housing agency administrations.

However, HUD needs to provide effective oversight of RMC contracts with public housing agencies to ensure the integrity of the contract and working relationship in place. In a written statement submitted for a subsequent hearing held by the Subcommittee on HUD's management of resident programs, one resident management consultant stated, "Resident councils fail to achieve Resident Management of their crime infested developments all across the country because bad PHA's limit, intimidate and control the funds available to resident organizations for training, technical assistance, economic development and empowerment."⁵⁴

The Resident Management Corporation at 1230 North Burling, Cabrini Green, provides an example of how even well managed CHA properties can fall victim to dysfunctional PHA administration. Prior to the HUD takeover, the RMC at 1230 North Burling had been providing management services in accordance with a contract signed by CHA. The quality of housing management provided by the RMC was commendable. However, CHA failed to accurately calculate the Allowable Expense Level (AEL) for the 1230 North Burling building, and subsequently failed to provide funding to the RMC in accordance with proper HUD procedure. While this situation has been remedied since the hearing, Resident Management Corporations identified in the future for management contracts should be protected from this type of neglect and abuse.

⁵³ See *Supra* at note 25.

⁵⁴ Resident Hearing of 11/9/95. (Prepared written statement of Bertha Gilkey, President, Cochran Tenant Management Corporation, p. 6, in subcommittee files.)

ADDITIONAL VIEWS OF HON. CARDISS COLLINS, HON. EDOLPHUS TOWNS, HON. HENRY A. WAXMAN, HON. LOUISE McINTOSH SLAUGHTER, HON. BARBARA-ROSE COLLINS, HON. JAMES P. MORAN, HON. CARRIE P. MEEK, HON. CHAKA FATTAH

This Investigative Report (the Report) results from an ongoing Human Resources and Intergovernmental Relations Subcommittee investigation of the U.S. Department of Housing and Urban Development's (HUD) takeover of the properties and operations of the Chicago Housing Authority (CHA). The investigation was initiated at the request of Ranking Minority Committee Member Cardiss Collins, and we commend Chairman William Clinger and Subcommittee Chairman Christopher Shays for their efforts in this matter.

CHA is the third largest public housing authority in the nation, and has within its housing stock a disproportionate number of the nation's worst public housing—huge concentrations of aging, deteriorated, poorly designed and poorly maintained buildings inhabited by very low-income, often female-headed families and plagued by gang crime and violence. At the time of the takeover, the HUD Inspector General, U.S. General Accounting Office (GAO), and independent analysts had documented systemic problems at CHA across major operational areas including housing management, maintenance, financial management, and security.

We support the Federal takeover of CHA as the only logical action to confront the systemic problems in Chicago's public housing and to address the urgent needs of the residents. This investigation seeks to determine the efficacy of HUD's strategy for reforming CHA, and the agency's capability to carry out proposed reforms in light of the enormity and intractability of CHA's problems.

We generally support the Report. However, the briefing provided to Subcommittee staff by HUD and CHA officials on December 5, 1995 has yielded new information, not reflected in the Report, that indicates that some of the Subcommittee's recommendations have already been undertaken by HUD. Our additional views include this information, as well as additional facts that can be found in the record, and provide a more complete picture of the status of the intervention effort, the rationale for the takeover, and the capability of HUD to intervene in other troubled housing authorities.

We concur with the Report's finding that "three months following the takeover, HUD lacked a long-term strategy for reforming CHA * * *", and the recommendation that "HUD, and new CHA management should develop a long term strategy for the recovery of CHA". In fact, in his testimony before the Subcommittee, HUD Secretary Cisneros acknowledged the need for a long-term plan. Subsequently, in the December 5 briefing HUD indicated that its five-year strategy for reforming CHA would be significantly in place by

February 15, 1996, and that the “vision statement” governing the reform effort would be released by HUD before December 31, 1995. We recommend that the Subcommittee closely monitor the development and implementation of the CHA recovery strategy to determine its efficacy and potential for success.

Also during the December 5 briefing, HUD demonstrated that all senior positions at CHA have been filled by new and qualified personnel in the employ of CHA, facilitating the agency’s differentiation between its Federal operations and its activities as CHA manager. It is our opinion that HUD is, in fact, already being responsive to the Subcommittee’s recommendations that “HUD should promptly secure strong, long term leadership at CHA”, and that “HUD should maintain a clear distinction between its actions as a Federal agency and its actions as CHA manager”.

We concur with the Report’s finding that “HUD’s takeover of CHA was a necessary response to the resignation of the CHA Board of Commissioners”. However, the Report does not sufficiently underscore that the Federal takeover action was also consistent with HUD’s Reinvention Blueprint, the Administration’s strategy for restructuring HUD that was released in December 1994. Among its provisions, the Blueprint establishes a one year benchmark during which troubled public housing authorities (PHAs) must either demonstrate improvement or HUD will be required to find that the PHA has breached its contract with the Federal government. If a breach is declared, HUD can administer the PHA—as the agency is now doing in Chicago.

We also concur, as does the agency, that “HUD lacks clear statutory or regulatory standards to trigger intervention at troubled housing agencies”. Although current authorizing language provides that the HUD Secretary may intervene in troubled PHA’s (Section 6(j) of the U.S. Housing Act of 1937, as amended), HUD has indicated to the Subcommittee that the statutory changes necessary to carry out the Blueprint proposal are integral to the agency’s ability to intervene in troubled authorities. We support HUD’s efforts to achieve this important statutory reform.

We support the Report’s recommendation that “HUD’s takeover of CHA should be evaluated as a pilot program to determine the effectiveness of direct HUD intervention at other troubled housing agencies”, with the caveat that the Congress take into consideration in its evaluation the impact of the FY 1995 rescissions and FY 1996 HUD appropriations on the availability of funds for the CHA recovery effort. Any failure to acknowledge the impact of these fiscal constraints imposed on HUD or CHA would result in an unfair and distorted evaluation of the effectiveness of the intervention effort.

For example, the FY 1995 rescissions bill reduced funding levels previously available to CHA in 1995 for modernization from \$179 million to \$143 million. This unanticipated shortfall has necessitated CHA’s postponement of building modernization activities requiring these funds to 1996.

Second, the FY 1996 House Appropriations bill significantly curtails funding of CHA operations. Taken in conjunction with the 1995 reductions, CHA stands to lose over \$58 million in modernization funds, reducing the 1995 appropriated level to \$121 million in

1996. In addition, a total of \$23.5 million in operating subsidies will be cut, reducing CHA funding from \$170 million to \$146 million. The bill also eliminates the Development and Hope VI programs. Housing sites that would have been eligible for redevelopment funding under these programs can no longer access these funds.

Finally, like the Majority, we are concerned about HUD's ability to deliver a sustained commitment of key officials with housing management experience in the intervention of other chronically troubled housing authorities. However, the Report's finding that "HUD does not have the staff resources to run several troubled housing agencies at once" was refuted by HUD in the December 5 briefing. It is important to note that the Report raises questions about HUD's ability to intervene in other PHAs using the CHA model. HUD can employ other intervention models that do not require the same commitment of HUD staff and resources as were provided to CHA, that are responsive to the unique needs and conditions of the individual PHA. Given that HUD may be taking intervention action against other troubled housing authorities in the coming weeks, it is incumbent upon the Subcommittee to monitor the implementation of these models to determine whether HUD can effectively carry them out.

CARDISS COLLINS.
EDOLPHUS TOWNS.
HENRY A. WAXMAN.
LOUISE MCINTOSH SLAUGHTER.
BARBARA-ROSE COLLINS.
JAMES P. MORAN.
CARRIE P. MEEK.
CHAKA FATTAH.

ADDITIONAL VIEWS OF HON. CHRISTOPHER SHAYS

On December 5, 1995, representatives from the Department of Housing and Urban Development (HUD) and the Chicago Housing Authority (CHA) briefed Members and staff on progress made in the implementation of the initial 120-day plan for CHA and in the formulation of a long-term vision and strategy to reform that profoundly troubled housing agency. Much of the information provided at the briefing was not available when this report was finalized. Therefore, I join my colleagues, Rep. Cardiss Collins (D-IL) and Rep. Edolphus Towns (D-NY), in acknowledging that HUD has already made notable progress implementing some of our recommendations.

In particular, with the hiring of an Executive Director and all the Assistant Directors, the top tier of a new CHA management team is in place. That addresses our first recommendation and should provide the leadership needed to improve operations and living conditions at CHA properties.

HUD informed us that Secretary Cisneros will issue a vision statement to guide long range planning at CHA. We were also told that a long range plan should be finished by February 15, 1996 and a Memorandum of Understanding (MOU) between HUD and CHA formalizing needed reforms will be signed by March 15, 1995. Completion of those steps should implement our second and third recommendations.

At the briefing, HUD disputed the conclusion that the Department lacks the staff resources and expertise to engage in several takeovers simultaneously. While I applaud HUD for taking more pro-active and aggressive steps to stabilize troubled public housing, I believe the Department's assessment of its capacity is well intentioned but premature. The hearing record supports our finding and any conclusion to the contrary can only be made in the context of HUD's long-term plans at CHA and our continuing oversight of this process.

CHRISTOPHER SHAYS.

